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United States District Court. Western District of Pennsylvania. In Bankruptcy.

IN THE MATTER OF WILLIAM BURNS.

The principle decided in *Campbell's Case*, that the District Courts of the United States have no power to issue injunctions to state courts, affirmed.

A judgment cannot be assailed in the Bankrupt Court, but the assignee and creditors must resort to the state court, to test its validity.

Purviance, for the Clarion Bank.

Marshall, for the Sheriff of Jefferson county.

Shiras, for the bankrupt and general creditors.

The opinion of the court was delivered by

M'CANDLESS, District Judge.—This case was argued at the same time with that of Hugh Campbell, and the principal point presented has been there decided.

It differs in this—Burns is a voluntary bankrupt. His petition was filed on the 31st of July 1867, and he was duly adjudged a bankrupt. The First National Bank of Clarion, a creditor of the firm of which the bankrupt was a partner, on the 18th of July 1867 obtained judgment on warrant of attorney dated 9th of July of the same year, for the sum of \$10,300. A fi. fa. was issued and a levy made by the sheriff of Jefferson county on merchandise and lumber, at what date, from the imperfection of the paper-book, this court is unable to say, but prior in date to the commencement of the proceedings in bankruptcy.

It was alleged at the argument, that the note on which this judgment is predicated was given under promise not to sue out a writ of execution, but to be held as a security, and to afford the firm of which the bankrupt was a partner, an opportunity to make some arrangement with their creditors. That in violation of this agreement, and in fraud of the 35th section of the Bankrupt Law, the judgment was entered, execution was issued, and levy made. Before the date fixed by the sheriff for his sale, we were asked, by petition, to enjoin the Clarion Bank and the sheriff from proceeding further with their writ, and directing them to deliver the property upon which the levy was made to the assignee in bankruptcy. This we did; at the same time admonishing the counsel

of the doubts entertained as to the power of this court, and suggesting a motion to dissolve, which was granted. Upon this point they have been fully heard, and the question has been decided today in Campbell's Case.

It was urged with great force and ability by the counsel for the bankrupt, that we were bound to interfere by injunction, because this was not a *valid* judgment. But how do we know that? It is entered in a court of competent jurisdiction, whose authority it is our duty to respect. If it is fraudulent or void under the Bankrupt Law, it is the province of the assignee in bankruptcy, who stands in the attitude of a defendant, to see, in that forum, that no injustice is done to the general creditors.

By the 1st section of the 4th article of the Constitution of the United States, it is declared that "full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state;" and this is equally binding on the Courts of the United States.

We must, therefore, refer the assignee in bankruptcy, as the representative of the defendant, and of all the creditors, to the Court of Common Pleas of Jefferson county.

Injunction dissolved.

Supreme Court of Pennsylvania.

HARTLEY & MORRIS'S APPEAL.

To impart an irrevocable quality to a power of attorney, in the absence of any express stipulation, and as the result of legal principles alone, there must co-exist with the power, an interest in the thing or estate to be disposed of or managed, under the power.

In a power of attorney constituting an ordinary agency to enforce settlement of an administrator's account, and to collect any moneys or property that might belong to grantor, a clause allowing the attorneys to have for their services one-half of the net proceeds of what they might recover or receive, does not render the power irrevocable.

APPEAL from the Orphans' Court of *Greene county.*

Downey, for plaintiff in error.

Purman, contrâ.

The opinion of the court was delivered by